

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:) Confirmation No.: 3381
Levik Kodaverdian, et al.) Group Art Unit: 3723
Serial No.: 10/638,096) Examiner: Hadi Shakeri
Filed: August 7, 2003) Atty. Docket: Bona US 4 CVL
For: FLOOR EDGER)
)
)

APPEAL BRIEF

To: Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Final Office Action mailed on October 23, 2006, and a Notice of Appeal mailed on January 22, 2007, the applicants submit the following appeal brief.

The applicants note that a previous appeal brief was filed on April 21, 2006. Subsequently the PTO reopened prosecution. Based on the filing of the previous appeal brief, there is no fee due for the filing of this appeal brief.

This brief contains items under the following headings as required by 37 CFR §41.37 and MPEP §1206:

- I. Real Party In Interest
- II. Related Appeals, Interferences and Judicial Proceedings
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
- VI. Grounds of Rejection to be Reviewed on Appeal
- VII. Argument
- VIII. Claims
- IX. Evidence
- X. Related Proceedings

Appendix A	Claims
Appendix B	Evidence
Appendix C	Related Proceedings

(I) REAL PARTY IN INTEREST

The real party in interest in the above-referenced patent application is BonaKemi USA, Inc. of 14805 E. Moncrieff Place, Aurora, Colorado.

(II) RELATED APPEALS, INTERFERENCES AND JUDICIAL PROCEEDINGS

There are no related appeals, interferences or judicial proceedings currently known to the Appellants, Appellants' legal representatives or the assignee, which will directly affect, or be directly affected by, or have a bearing on, the Board's decision.

(III) STATUS OF CLAIMS

Claims 1-9, 11-13, 15-24, 26-28, 30, and 32-35 are pending. All pending claims stand rejected. The rejections of all claims are appealed.

(IV) STATUS OF AMENDMENTS

No amendments were filed or entered subsequent to the final rejection mailed October 23, 2006.

(V) SUMMARY OF THE CLAIMED SUBJECT MATTER

The invention as claimed is summarized below with reference numerals and references to the specification and drawings. The invention is broadly set forth in the language corresponding to independent claims 1 and 17. In addition, argued claim 15 is summarized below. Discussions about elements of the invention can be found at least at the locations in the specification and drawings cited in the claims below.

1. A wood floor edger (100) comprising:
a first housing (104) comprising a first opening, a second opening, a third opening, and a rotatable abrasive disc (274) located proximate said first opening, said rotatable abrasive disc (274) having a diameter greater than six inches; [page 2, lines 13-14; Page 2, line 29 to page 3, line 2; page 4, line 20; Figs. 1 and 5]
a motor (110) at least partially located in said second opening and drivingly connected to said abrasive disc; [Page 6, lines 13-16; Figs. 1 and 5]
a fan (250) located in said first housing (120), said fan (250) being drivingly connected to said motor (110); [page 3, lines 29-31; Page 6, lines 12-16; Fig. 5; paragraph added on October 22, 2004 at page 4 after line 26] and
an air path extending between said first opening and said third opening by way of said fan. [Page 3, lines 26-31; Page 4, lines 20-25; Fig. 5; paragraph added on October 22, 2004 at page 4 after line 26]

15. The wood floor edger (100) of claim 1, and further comprising a second housing (106) having a handle (114) attached thereto. [Fig. 1; page 2, line 31 to page 3, line 6]

17. A wood floor edger (100) comprising:
a first housing (104) comprising a first opening, a second opening, a third opening, and a rotatable abrasive disc located adjacent said first opening; [Page 2, line 29 to page 3, line 2; page 4, line 20; Figs. 1 and 5]
a motor at least partially located in said second opening and drivingly connected to said abrasive disc; [Page 6, lines 13-16; Figs. 1 and 5]
a fan located in said first housing and proximate said third opening, said fan being drivingly connected to said motor; [page 3, lines 29-31; Page 6, lines 12-16; Fig. 5; paragraph added on October 22, 2004 at page 4 after line 26]

an air path extending between said first opening and said third opening by way of said fan; [Page 3, lines 26-31; Page 4, lines 20-25; Fig. 5; paragraph added on October 22, 2004 at page 4 after line 26] and

a motor controller electrically connected to said motor; [Page 6, lines 17-24; Fig. 2]

wherein said motor is operable at a speed that is preselected by said motor controller. [Page 6, line 31 to page 7, line 6]

(VI) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 4, 9, 11, 13, 15-17, 20-24, 26, 28, 30, and 33-35 stand rejected under 35 U.S.C. §102(b) as being anticipated by Gurstein et al. (5,870,791).

Claims 12 and 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gurstein et al. (5,870,791) in view of anyone of Buser (6,935,939), Oda (6,447,383), or Howard (5,392,568).

Claims 2, 3, 18, and 19 are dependent on allowable base claims 1 and 17 and are deemed allowable by way of their dependence and for other reasons. Claims 2, 3, 18, and 19 will stand or fall with their respective base claims.

(VII) ARGUMENT

Rejection of Claims 1, 4-9, 11, 13, 15-17, 20-24, 26, 28, 30, and 33-35 Under 35 U.S.C. §102(b)

Claims 1, 4, 9, 11, 15-17, 20-24, 26-28, 30, and 33-35 were rejected under 35 U.S.C. §102(b) as being anticipated by Gurstein et al. (5,870,791).

CLAIM 1

Claim 1 is printed as follows for convenience:

A wood floor edger comprising:

a first housing comprising a first opening, a second opening, a third opening, and a rotatable abrasive disc located proximate said first opening, said rotatable abrasive disc having a diameter greater than six inches;

a motor at least partially located in said second opening and drivingly connected to said abrasive disc;

a fan located in said first housing, said fan being drivingly connected to said motor; and

an air path extending between said first opening and said third opening by way of said fan.

According to the final office action, Gurstein discloses all the elements of claim 1. The applicant notes that in the office action dated June 27, 2005, Gurstein was the primary reference in a 103(a) obviousness rejection. At that time, the PTO stated that Gurstein does not disclose a third opening as claimed in claim 1. Accordingly, based on the June 27, 2005 office action, Gurstein does not disclose a third opening and, therefore, cannot anticipate claim 1. The applicants further note that at this point in prosecution, every possible configuration of Gurstein has been applied to these claims to the point where the office actions are contradicting one another at the expense of the applicant.

The final office action states that Gurstein discloses a housing (shroud 4, deck 14, and cover 22), a first opening (located proximate the disc 6), a second opening (16 on either side of the bar defining 17), a third opening (24), a motor (8), and a fan (18) located in the first housing. It is assumed that the final office action refers to the opening proximate the disc (6) as the first opening. The final office action further states

that an air path extends between a port and the first opening through the fan (column 5, lines 50-58).

The air path described in the aforementioned section of Gurstein is shown in Fig. 4 as A and B. As shown in Fig. 4, neither portion of the air path (A or B) is located or extends into the first opening, which has been defined by the office action as containing the disc (6). The air paths (A and B) are used for cooling and, thus, would not extend proximate the disc (6), which is a sanding disc. As described in earlier responses, if the air paths (A or B) extended to the disc (6), the air flow would cause dust to be blown through the motor and into the room in which the Gurstein device is being operated. In addition, the dust could clog the motor. Accordingly Gurstein uses clean air, as shown in Fig. 4, for cooling.

As stated above, the fan (18) and associated air paths (A and B) disclosed in Gurstein serve to cool the motor (8), which is described at column 5, lines 51-65 as follows:

Cooling fan 18 sucks air in through air inlet slots 24 and out under motor cover 22 through grooves 15, cooling both motor 8 and an upper surface of deck 14 while floor polisher 1 is in operation. The air flow is divided in two directions, along the top of deck 14 along grooves 15 under motor cover 22, and also straight down through cooling fan 18 through the fins of motor 8. The two directions of the air flow created by cooling fan 18 are shown by the arrows A and B in FIG. 3. This cooling feature facilitates the cooling of motor 8 and the motor controller 25 which includes power factor correction means mounted on the reverse side of deck 14. This cooling system is of primary importance to the operation of floor polisher 1, as failure to adequately cool the motor controller 25 serving brushless D.C. or light weight motor 8 will quickly result in burnout of the controller.

Per the description of the fan in Gerstein, Gurstein cannot disclose "an air path extending between said first opening and said third opening by way of said fan" as claimed in claim 1.

Based on the foregoing, Gerstein cannot disclose all the elements of claim 1 and cannot anticipate claim 1. The applicants contend that claim 1 is allowable and request reversal of the rejection.

CLAIMS 4-9, and 11-13

Claims 4-9, and 11-13 are deemed allowable by way of their dependence on claim 1 and for other reasons. Accordingly, claims 4-9, 11, and 13 stand or fall with claim 1.

CLAIM 15

Claim 15 is dependent on claim 1 and recites the following:

The wood floor edger of claim 1, and further comprising a second housing having a handle attached thereto.

Claim 15 is directed to the wood floor edger comprising a second housing wherein a handle is attached to the second housing. According to the final office action, Gurstein meets all the limitations of a second housing, wherein the second housing is a frame (3).

As shown in Figs. 2-4 of Gurstein, the handle (26) is connected to a housing (4) that contains the above-described disc (6). Thus, the housing (4) of Gurstein has to correspond to the first housing of claim 1. The appellants note that the frame (3) recited in the final office action is part of the housing (4). Accordingly, the handle (26) of

Gurstein has to be connected to a first housing and not a second housing as claimed in claim 15.

Based on the foregoing, Gurstein does not meet all the limitations of claim 15 as stated in the final office action. The applicants request reversal of the rejection.

CLAIM 16

Claim 16 is dependent on claim 15 will stand or fall with claim 15.

CLAIM 17

Claim 17 is independent and recites the following:

A wood floor edger comprising:
a first housing comprising a first opening, a second opening, a third opening, and a rotatable abrasive disc located adjacent said first opening;
a motor at least partially located in said second opening and drivingly connected to said abrasive disc;
a fan located in said first housing and proximate said third opening, said fan being drivingly connected to said motor;
an air path extending between said first opening and said third opening by way of said fan; and
a motor controller electrically connected to said motor;
wherein said motor is operable at a speed that is preselected by said motor controller.

Claim 17 was rejected on the same grounds as claim 1. Therefore, claim 17 will stand or fall with claim 1.

CLAIMS 20-24, 26-28, and 33-35

Claims 20-24, 26-28, and 33-35 are deemed allowable by way of their dependence on claim 17 and for other reasons. Therefore, the applicants contend that they either stand or fall with claim 17.

CLAIM 30

Claim 30 is dependent on claim 17 and recites the following:

The wood floor edger of claim 17, and further comprising a second housing having a handle attached thereto.

Claim 30 is similar to claim 15 and will, thus, stand or fall with claim 15. Based on the foregoing, the applicants request reconsideration of the rejection.

Rejection of Claims 12 and 27 Under 35 U.S.C. §103(a)

Claims 12 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Gurstein et al. (5,870,791) in view of anyone of Buser (6,935,939), Oda (6,447,383), or Howard (5,392,568).

Claims 12 and 27 are dependent on allowable base claims and are deemed allowable by way of their dependence and for other reasons. Claims 12 and 27 will stand or fall with their respective base claims.

Rejection of Claims 2-8, 18-23, and 32 Under 35 U.S.C. §103(a)

Claims 2, 3, 18, and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Gurstein et al. (5,870,791) in view of McCutchen (6,540,598).

Claims 2, 3, 18, and 19 are dependent on allowable base claims 1 and 17 and are deemed allowable by way of their dependence and for other reasons. Claims 2, 3, 18, and 19 will stand or fall with their respective base claims.

In view of the above, all of the pending claims are believed to be allowable and a notice to that effect is earnestly solicited.

Respectfully submitted,
KLAAS, LAW, O'MEARA & MALKIN, P.C.

Dated: March 22, 2007

By: /Robert W. Nelson/
Robert W. Nelson
Reg. No. 37,898
1999 Broadway, Suite 2225
Denver, CO 80202
Tel: (303) 298-9888
Fax: (303) 297-2266

APPENDIX A - CLAIMS

Claim 1: A wood floor edger comprising:

a first housing comprising a first opening, a second opening, a third opening, and a rotatable abrasive disc located proximate said first opening, said rotatable abrasive disc having a diameter greater than six inches;

a motor at least partially located in said second opening and drivingly connected to said abrasive disc;

a fan located in said first housing, said fan being drivingly connected to said motor; and

an air path extending between said first opening and said third opening by way of said fan.

Claim 2: The wood floor edger of claim 1, wherein said rotatable abrasive disc has a diameter of about seven inches.

Claim 3: The wood floor edger of claim 1, wherein the weight of said wood floor edger is about twenty-seven pounds.

Claim 4: The wood floor edger of claim 1, wherein said motor is rotatable at a speed of greater than ten-thousand revolutions per minute.

Claim 5: The wood floor edger of claim 1, wherein said motor is rotatable at a speed of about ten-thousand five-hundred revolutions per minute.

Claim 6: The wood floor edger of claim 1, wherein said abrasive disc is rotatable at a speed of about three-thousand two-hundred revolutions per minute.

Claim 7: The wood floor edger of claim 1, wherein said motor has horsepower greater than two.

Claim 8: The wood floor edger of claim 1, wherein said motor has horsepower of about 2.4.

Claim 9: The wood floor edger of claim 1, wherein said motor is connected to said rotatable abrasive disc by a belt.

Claim 10 (cancelled)

Claim 11: The wood floor edger of claim 1, wherein said fan is located within a compartment within said first housing.

Claim 12: The wood floor edger of claim 9, wherein said third opening is located adjacent said fan and wherein a vacuum device is attachable to said third opening.

Claim 13: The wood floor edger of claim 1, and further comprising at least one wheel attached to said first housing.

Claim 14 (cancelled)

Claim 15: The wood floor edger of claim 1, and further comprising a second housing having a handle attached thereto.

Claim 16: The wood floor edger of claim 15, wherein said handle is located opposite said opening of said first housing.

Claim 17: A wood floor edger comprising:
a first housing comprising a first opening, a second opening, a third opening, and
a rotatable abrasive disc located adjacent said first opening;
a motor at least partially located in said second opening and drivingly connected
to said abrasive disc;
a fan located in said first housing and proximate said third opening, said fan
being drivingly connected to said motor;
an air path extending between said first opening and said third opening by way of
said fan; and
a motor controller electrically connected to said motor;
wherein said motor is operable at a speed that is preselected by said motor
controller.

Claim 18: The wood floor edger of claim 17, wherein said rotatable abrasive
disc has a diameter of about seven inches.

Claim 19: The wood floor edger of claim 17, wherein the weight of said wood
floor edger is about twenty-seven pounds.

Claim 20: The wood floor edger of claim 17, wherein said motor is rotatable at
a speed of greater than three thousand revolutions per minute.

Claim 21: The wood floor edger of claim 17, wherein said motor is rotatable at
a speed of about ten-thousand five-hundred revolutions per minute.

Claim 22: The wood floor edger of claim 17, wherein said motor has
horsepower greater than two.

Claim 23: The wood floor edger of claim 17, wherein said motor has horsepower of about 2.4.

Claim 24: The wood floor edger of claim 17, wherein said motor is connected to said rotatable abrasive disc by a belt.

Claim 25 (cancelled)

Claim 26: The wood floor edger of claim 17, wherein said fan is located within a compartment within said first housing.

Claim 27: The wood floor edger of claim 17, wherein a vacuum device is attachable to said third opening.

Claim 28: The wood floor edger of claim 17, and further comprising at least one wheel attached to said first housing.

Claim 29 (cancelled)

Claim 30: The wood floor edger of claim 17, and further comprising a second housing having a handle attached thereto.

Claim 31 (cancelled)

Claim 32: The wood floor edger of claim 1, wherein said wood floor edger has a weight of less than twenty-eight pounds.

Claim 33: The wood floor edger of claim 1, wherein said motor is a brushless motor.

Claim 34: The wood floor edger of claim 30, wherein said motor is located between said first housing and said second housing.

Claim 35: The wood floor edger of claim 30, wherein said handle is located opposite said second opening of said first housing.

APPENDIX B - EVIDENCE

There is no evidence to be presented

APPENDIX C - RELATED PROCEEDINGS

There are no related proceedings.